

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

Onward Therapy Services LLC
Petitioner

File No. 21-1132

v

Auto-Owners Insurance Company
Respondent

Issued and entered
this 7th day of October 2021
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On July 20, 2021, Onward Therapy Services LLC (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Auto-Owners Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Respondent issued the Petitioner a written notice of the Respondent's determination under R 500.64(1) on June 22, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on July 22, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on July 22, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on August 10, 2021.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on August 23, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatments rendered on May 17 and 20, 2021. The Current Procedural Terminology (CPT) code at issue is 97110, described as therapeutic exercise.

With its appeal request, the Petitioner submitted a statement indicating that the injured person received therapy treatments described as “inclusive fitness training” on the dates of service at issue. The Petitioner stated that the injured person was involved in a motor vehicle accident in October 2009 and suffered loss of consciousness and a T3-T5 fracture, which caused paralysis. The Petitioner also noted that the injured person is legally blind. The Petitioner’s supporting documentation indicated that the injured person was wheelchair bound, independent with household tasks and self-care, and had not yet reached maximum improvement from therapy.

The Petitioner’s request for an appeal stated:

[The injured person] has had significant improvement in his pain management, upper body strength and core strength since he started with [the Petitioner]. [The injured person] is still not able to complete his home exercise plan (HEP) without assistance and has not reached his range of motion (ROM) goals for his bilateral shoulder flexion...Without continued inclusive fitness training, [the injured person] is at risk of declining in functional ambulation, overall strength and flexibility, and increased pain.

In its reply, the Respondent reaffirmed its denial of payment for the physical therapy treatments rendered on the dates of service at issue, and stated that, under the recommendation of a physical medicine and rehabilitation physician, there “was not a significant change in function for the patient and services could be performed in a home-based setting with insight from a physical therapist.” In addition, the Respondent stated that the injured person began fitness training with the Petitioner on April 12, 2021, with continuous treatment 2 times per week. The Respondent noted that it has paid for the injured person’s 24-hour daily prescribed skilled attendant care services since 2009.

The Respondent further stated in its reply:

With the lack of improved change in function and the extensive therapy received to date, the fitness training for [the injured person] is no longer needed for his care, recovery or rehabilitation under 500.3107(1)(a). Since [the Respondent] paid attendant care services while [the injured person] attended his fitness training, presumably his caregiver was in attendance and would have had ample opportunity to be trained to facilitate a home exercise program (maintenance program) as part of his daily care.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal is a matter of inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not supported on the dates of service at issue and the treatments were overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is board-certified in physical medicine and rehabilitation. In its report, the IRO reviewer referenced R 500.61(i), which defines "medically accepted standards" as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on Official Disability Guidelines and current medical literature concerning management and functional outcomes relating to spinal cord injuries for its recommendation.

The IRO reviewer explained that paraplegia occurs when an injury impacts the part of the nervous system controlling the lower half of the body, and it "refers to impairment or loss of motor and/or sensory function in the thoracic, lumbar or sacral segments of the spinal cord, secondary to damage of neural elements within the spinal canal." The IRO reviewer noted that the injured person's injury happened "more than 11 years ago, so there is no further improvement expected." Specifically, the IRO reviewer stated:

The [injured person's] functional status remains the same since December 2020 to compare with the treatment period in question. The [injured person] is wheelchair-bound with the limited functional abilities in activities of daily living. Since April 15, 2021 through June 3, 2021, the [injured person] underwent 9 sessions of physical therapy performed by the licensed [Petitioner]. The physical therapy [fitness therapy] was accompanied by the increased spasticity and pain that was documented in the progress notes.

The IRO reviewer explained that ODG guidelines for the injured person's diagnoses require "meaningful goals in order to pursue skilled physical therapy." The IRO reviewer stated that the injured person's spasticity is concerning in relation to the rendered treatments and noted that it "is usually caused by damage to nerve pathways within the spinal cord that control muscle movement." Notably, the IRO reviewer indicated that the Petitioner consistently documented the injured person's functional decline after the rendered treatment.

The IRO reviewer opined:

Spasticity in paraplegic patients is a very serious condition and can have multiple causes. In this case, therapy must be stopped and [the injured person] must be evaluated to investigate the cause of the increased spasticity and [be] properly treated. Poorly managed spasticity may cause limited range of motion, pain/discomfort, difficulties with balance and coordination, body distortions due to uneven muscle strain, increased risk of pressure sores, and increased risk of joint subluxation or dislocation.

Based on the above, the IRO reviewer recommended that the Director uphold the Respondent's determination that the treatments provided to the injured person on May 17 and 20, 2021 were not medically necessary and were overutilized in frequency or duration in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director upholds the Respondent's determination dated June 22, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

 Recoverable Signature

X *Sarah Wohlford*

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford